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Contested policymaking in Russia: industry, environment, and the ‘best available technology’ debate

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Contested policymaking in Russia: industry, environment, and the ‘best available technology’ debate

The centralised nature of the Russian political system and the dominance of the executive can obscure the role played by other actors in the policymaking process. This article aims to further our understanding of the Russian policy process by examining the ability of industry to determine policy outcomes. An example from the environmental policy process concerning the introduction of the ‘best available technology’ will be presented. This highly contested policy led to significant opposition from industry groups and disputes between government actors. The case demonstrates that industrial interests in Russia are able to exert considerable influence on the policy process; however this influence is not absolute and requires closer scrutiny. Political leadership was found to be an important factor in achieving policy outcomes, however for the most part, the policy process was found to be heavily bureaucratised, and dominated by a range of competing interests.

Keywords: Russia; policymaking; industry; interest groups; environment; best available technology.

Introduction

How are policy decisions made in Russia? Which actors are involved and to what extent are they able to influence policy outcomes? The nature of the Russian political system and the dominance of the powerful executive can lead us to overlook questions concerning how policymaking works. A case study from the environmental policy process involving the introduction of the ‘best available technology’ is undertaken with the intention of exploring these issues.

The present study examines the policymaking process in Russia, using the ‘best available technology’ (*nailuchshaya dostupnaya tekhnologiya*, or NDT) policy project as a case study. It focuses on industry as an interest group, and its ability to influence decision-making and determine policy outcomes. The study explores the position of government actors, including the MPR in particular and the bureaucratic nature of the policy process in Russia. It also considers the importance of Putin and Medvedev’s involvement in the case and the function of political leadership in Russian policymaking more broadly.

NDT is defined according to Russian law as the ‘technology of the production of goods, work, and services, determined on the basis of modern achievements in science and technology and the best combination of criteria for achieving objectives of environmental protection subject to the availability of technical capacity for its application’ (Federal’nyi Zakon 2014). Essentially, it involves the introduction of technology into industrial production processes to achieve the best possible environmental outcomes.

The policy process surrounding the introduction of the principle of the ‘best available technology’ into Russia’s body of environmental legislation was lengthy and contested. The project was initiated in 2010 by Medvedev, who at first appeared to take a strong interest in NDT and environmental issues more broadly. As the process dragged on, however, he lost his earlier momentum. The policy debate was led by a determined Ministry of Natural Resources and the Environment (MPR). The MPR encountered equally determined industry groups, who launched significant and sustained opposition to the policy, together with elements within the government. The introduction of this policy had significant implications for Russia’s highly-polluting extractive and natural resource processing industries in particular, which explains, for the most part, why the policy met with so much hostility. The result was many years of conflict and eventual policy stalemate, with resolution finally achieved following intervention by Putin. Returning to the presidency part way through the policy process, Putin was never overly interested in the project. So, while political leadership was found to play a role in shaping the policy agenda and in bringing about a final outcome, overall, the case points to the important role played by competing bureaucratic interests in driving the policymaking process.

Policymaking in Russia

There is a growing body of literature concerned with how policy is made in Russia. These works address a wide variety of policy areas, including the economic development of the Far East (Fortescue 2015), subsoil law reform (Fortescue 2009, Adachi 2009) and police reform (Taylor 2014). Strong emphasis is placed on the dominance of political leadership, including in particular, Putin’s role in policymaking and his centralised control of the political system. There are relatively few studies examining policymaking under Medvedev, with the notable exception of Taylor (2014).

Putin’s role in and dominance of the system is closely linked to questions concerning the effectiveness of the policy process. The efficacy of decision making processes is, therefore, seen to be in many ways a function of executive dominance. There are two rather contradictory aspects to the issue of effectiveness: is the system ineffective (and the system is usually seen as ineffective) because Putin is insufficiently involved, or because he is over involved?

Petrov, Lipman and Hale support the latter argument, and suggest that the centralisation and personalisation of political control by the ruling authorities under Putin has come at the expense of effective policymaking. As Petrov et al. note, ‘without free sources of information and open avenues for interest representation, policy-making has become something of a guessing game as to how much the authorities can get away with doing or not doing before a social uprising occurs’ (Petrov, Lipman, and Hale 2014, 21-2). Major policymaking mistakes become likely in such a situation, with potentially serious consequences for the regime. In addition, issues of seemingly minor importance become the responsibility of the leader (Petrov, Lipman, and Hale 2014, 2). Monaghan (2013) has also noted the ‘manual control’ of the policy process, and the consequences for strategic planning.

Fortescue on the other hand has pointed out that the effectiveness of the policymaking process under Putin has varied considerably. Some policy issues have been dealt with efficiently, and

others not (Fortescue 2012, 121). For example, in relation to the law on subsoil, Fortescue makes the observation that

Putin intervened in the process on a regular basis, ostensibly to instil a sense of urgency and to suggest the direction in which progress should be made. More often than not, however, his statements were ambiguous and failed to bring the rapid reaction one might have expected (Fortescue 2009, 172).

When and why Putin chooses to intervene in the policy process is a key concern. Fortescue points to the importance of Putin's personal power in the context of policy resolution. In cases where Putin's own position was involved, then issues were resolved speedily, suggesting that, 'in cases where he did not achieve a resolution it was because he was not strongly motivated to do so' (Fortescue 2012, 122). We will consider these issues in the context of the NDT debate below.

While the focus is often on Putin, the participation of government actors and industry groups in the policy process has been given some attention. Fortescue (2009) and Adachi (2009), for example, evaluate the relative importance of key ministries and business and industry groups in the debate subsoil law reform. Wilson Rowe (2013) explores the function of expert knowledge in the climate policy debate. Finally, Turovsky (2014) describes intense competition between government departments to control the significant financial resources being diverted to the Far East region of Russia.

Turning to the environment as a specific area of study, Russian environmental politics has received a considerable amount of attention in the post-Soviet period. There has been significant focus on the role of environmental non-government organisations (ENGOS) within civil society. Notable works include Dawson (1995), Yanitsky (1999, 2012), Henry (2002, 2006, 2010b, 2010a) and Feldman and Blokov (2012). A number of valuable studies have emerged which address institutional developments within Russia's environmental bureaucracy, such as Oldfield (2002, 2005), Crotty (2003), Crotty and Rodgers (2012), Mol (2009) and Peterson and Bielke (2001). However, there have been few studies which aim to investigate environmental decision-making and the policymaking process specifically, with some exceptions including Venable (2008), Kochtcheeva (2009) and Hitchcock (2010). Further policy based case studies are required.

This article will outline the policy of NDT and the context in which the policy emerged. It will then provide an overview of the key actors involved in the case. The main body of the article involves a chronological assessment of NDT policy process, from its official inclusion on the government's agenda in May 2010, to its eventual completion in July 2014. It will explore the position of industry actors and that of the MPR, evaluating the reasons for the intense conflict that emerged, and assess the ability of industry actors to obtain concessions from the MPR during the process. Policy documents, meeting transcripts, and media reports are used to discuss the process. The article concludes that industry is a powerful actor in the environmental policy process, and able to exert considerable influence over policy outcomes. However, this influence was not absolute, with the MPR able to eventually pass the law, albeit in a weakened

form. The broader implications for Russian policymaking are discussed, including the bureaucratic nature of the process, and the importance of business associations in acting as a focal point for industry concerns. The involvement of Putin and Medvedev are also considered.

The ‘best available technology’

The concept of the ‘best available technology’ is used internationally, with the Russian policy debate drawing on the European experience in particular. In the Russian context, the core element in the introduction of the principle of NDT involved the development of Federal Law No. 219 *‘O vnesenii izmenenii v Federal’nyi zakon “Ob okhrane okruzhayushchei sredy” i otdel’nye zakonodatel’nye akty Rossiiskoi Federatsii’* (‘On the introduction of amendments to the Federal law “On environmental protection” and individual legislative acts of the Russian Federation’), which was signed by the president on 21 July 2014. This law involved a series of amendments to existing laws, including the 2002 Law on Environmental Protection, which is Russia’s most important environmental law.

Federal Law No. 219 introduced a range of incentives for enterprises to modernise, including reimbursing part of the cost of implementing NDT, the removal of penalties for environmental violations by enterprises that have implemented NDT in full, and the provision of investment credits. The law also introduced sanctions in the form of gradually increasing payments for negative environmental impact. Enterprises which exceeded pollution and waste limits set by the NDT regulations are required to develop a program to improve their environmental effectiveness, and include measures to modernise their production processes (Donskoi 2014).

Four categories of negative impact are established in the NDT law.¹ Category I ‘objects’ (*ob’ekty*), or enterprises, have a significant adverse impact on the environment, category II objects have a moderate adverse impact, category III objects have a minor negative impact, and category IV objects have minimal negative impact on the environment (Federal’nyi Zakon 2014). Enterprises which fall into category I are required to obtain a *‘kompleksnoe ekologicheskoe razreshenie’* (‘comprehensive environmental permit’). These are issued by the government and valid for seven years. These permits outline permissible emission levels and pollution discharges for an enterprise, and sets limits on the disposal of waste. Category II enterprises, on the other hand, are only required to submit a declaration of environmental impact every seven years, in which anticipated emissions and discharges are outlined. Category III enterprises are required to submit a report notifying the government of actual emissions of pollutants and waste generation. Category IV enterprises have no significant administrative requirements, and are not required to report on their activities.

In addition to the law, there were a number of other policy outputs which resulted from the complex NDT policy process. The most important of these has been the creation of the Interdepartmental Council on the Transition to the Principles of NDT and the Introduction of Modern Technology, established in May 2014. The council was set up in order to oversee

¹ Note that there were originally three categories of negative environmental impact (severe, moderate and minor), but this was changed to four early on during the policy process (significant, moderate, slight and minimal).

activities related to the introduction of NDT, including regulatory matters. This body is headed by the Ministry of Industry and Trade (Minpromtorg), and involves a number of other federal agencies including the MPR, and the Ministry of Energy (Pravitel'stvo Rossii 2014b).

In addition, a NDT Bureau (*Byuro nailuchshikh dostupnykh tekhnologii*) has been established to coordinate a series of ‘technical working groups’, which are comprised of experts from interested federal executive bodies, government research institutions, and not-for-profit organisations. The working groups are responsible for developing industry handbooks (*informatsionno-tekhnicheskie spravochniki*) for different industrial sectors. The handbooks are used to outline the methods for determining which technology is the ‘best available’ and the implementation process, for each specific sector. The development of these handbooks remains a lengthy and ongoing process.

Finally, the introduction of NDT also involves the development and issue of a number of presidential and governmental directives. The key directive is still currently under development, and relates to the establishment of the specific criteria on which the division of enterprises into the four categories of pollution levels will be based. These are primarily related to production processes within various industries. For example, enterprises which are involved in the production of petroleum products, and metallurgical processes in which certain equipment is used are to be included in category one, as they are considered to have the highest level of environmental impact (Ministry of Natural Resources 2015).

Context and agenda setting

A basic understanding of the principle of NDT was introduced into Russian environmental legislation in 2002. The 2002 Law on Environmental Protection called for the introduction of measures to limit emissions and the discharge of pollutants in the environment, including through the implementation of the ‘best existing technology’ (*nailuchshikh sushchestvuyushchikh tekhnologii*). It defined best existing technology as ‘technology, based on the latest achievements in science and technology, aimed at reducing negative environmental impact and having a prescribed period of practical application in accordance with economic and social factors’ (Federal'nyi Zakon 2002).

Nothing further was done to develop the concept of NDT and introduce regulations to enforce it until it became part of Medvedev’s agenda upon assuming the presidency in 2008. It is worth noting that there was a significant amount of hope when Medvedev became president, with many believing that his election marked a new period in Russian environmental policy (Ishkov 2009).

From 2008 onwards, we find a number of references to the principle of NDT and talk of introducing it into various pieces of legislation. For example, on 4 June 2008, early in his presidency, Medvedev issued *Ukaz 889 ‘O nekotorykh merakh po povysheniyu energeticheskoi i ekologicheskoi effektivnosti rossiiskoi ekonomiki’* (*‘On some measures to improve the energy and environmental efficiency of the Russian economy’*). The *ukaz* listed a number of tasks for the government including adopting measures to encourage industry to embrace energy-saving and environmentally clean technologies, and to strengthen laws concerning non-compliance

with regulations on permissible impact (Prezident Rossii 2008). NDT was not specifically mentioned, but the *ukaz* was widely regarded as the starting point of the NDT policy process.

The next major development occurred two years later, when Medvedev introduced an important package of environmental reforms. These reforms were set out in *Poruchenie 1640*, issued following the State Council Presidium meeting on 27 May 2010. The *poruchenie* called for the development of six bills aimed at improving environmental legislation, including a law to introduce the principle of the ‘best available technology’. The other laws related to protecting the sea from oil pollution, state environmental monitoring, state environmental control, protected areas, and waste management (Prezident Rossii 2010c). We will consider this meeting in more detail below.

NDT has both an environmental and an economic purpose. In the policy debate, NDT was presented as a new tool for protecting the Russian environment. As Minister for Natural Resources and the Environment, Sergey Donskoi, remarked, the law is ‘primarily aimed at significantly improving the environmental situation in the country and at developing the system of environmental regulations’ (Pravitel'stvo Rossii 2014b). NDT introduced a number of fundamental changes to Russia’s environmental policy, representing a shift from a focus primarily on pollution control, to the introduction of preventative measures at the source (Donskoi 2014). It does this in two ways: through the introduction of penalties for violation of environmental regulations, and by providing incentives for the transition to more environmentally sound production processes. The introduction of NDT is also part of a wider transition from a system where the focus is on state environmental inspections (*gosudarstvennyi ekologicheskii nadzor*), to one in which the onus is on reporting by individual enterprises. As Donskoi noted, NDT would involve a ‘transition from inspections to reporting, which allows the transfer of part of the responsibility to the subject of economic activity while minimising the administrative functions and introducing tough penalties for submitting false information’ (Donskoi 2014).

At the same time, the policy was seen as part of a broader push for the modernisation of the economy under Medvedev, and as a way of making Russian industry more competitive. In discussing the introduction of NDT in October 2014, for example, Medvedev stated that ‘our joint task – I mean the state and business – is to create more modern, high-tech, economically effective and environmentally safe companies in all branches of industry and in all of the country’s regions’ (Pravitel'stvo Rossii 2014b). Medvedev went on to observe that, ‘the process, to be quite frank, is very difficult, and somewhat contradictory, but probably, nevertheless is necessary for the sustainable development of our economy’ (Pravitel'stvo Rossii 2014b).

The introduction of the principle of NDT was to involve not only the modernisation of existing enterprises, but also the construction of new enterprises according to the principles of NDT. It was a very ambitious policy. In July 2014, for example, Donskoi stated that,

this bill, in the first instance, aims at not only introducing the best technology in terms of reducing negative environmental impact, this is the core of all recent initiatives

aimed at the modernisation of production. This is modernisation on the scale of the whole of Russian industry. This is a major step forward for the introduction and transition of our old enterprises to new, competitive technologies (Ministry of Natural Resources 2014).

Within a broader context, the policy was seen by the government to be a key part of Russian negotiations to join the OECD (Shapovalov 2013b). This required Russia to meet a number of mandatory conditions, including the harmonisation of domestic environmental legislation with international norms (Shvabauer 2013).²

Actors

The main actors involved in the NDT policy debate were from the government and industry. However, there was considerable overlap between these two groups. The policy process was led by the MPR. There was high level involvement in this project, with the Minister, Yuri Trutnev, pursuing the introduction of NDT in the first instance, before Sergei Donskoi took over as minister in May 2012. This indicates the importance attached to this policy by the MPR. Within the MPR, the Department of State Policy and Regulation in the Sphere of Environmental Protection, headed by Trutnev protégé Rinat Gizatulin, was responsible for the project.

The MPR combines the seemingly contradictory functions of natural resource exploitation and environmental protection, and has done since the State Committee on Environmental Protection (*Goskomekologiya*) was abolished in 2000. These issues have been well documented elsewhere. See for example, Peterson and Bielke (2001), Oldfield (2002, 2005), Crotty (2003), Crotty and Rodgers (2012), and Mol (2009). There has been a significant amount of scepticism that the environment would receive any priority under these institutional arrangements, however this case suggests that this may be an unfair evaluation.

The other key government actor was the Ministry of Economic Development (MER), which took the side of industry in the policy debate. The ministry acted to defend the interests of industry and reduce MPR attempts to introduce what it perceived to be an increase in administrative barriers for business. We will consider the MER position in further detail below. Finally, it is worth noting that although Minpromtorg was not involved in the policy debate, the agency was given a major implementation role when the law had been passed.

Industry interests were represented in the first instance by the Russian Union of Industrialists and Entrepreneurs (RSPP), with its Environment Committee taking the lead, although with significant involvement from the Governing Board (*'Byuro Pravleniya'*). The Chamber of Commerce and Industry's (TPP) Environment Committee played only a minor part in the process and so will not be considered here. Individual company preference in this case was to provide input to the policy process through business associations, the significance of which will be addressed in the discussion section.

² These negotiations were put on hold by the OECD in March 2014 in response to the Ukraine crisis.

While the industry side of the policy debate involved a degree of inter-sectoral cooperation, it was dominated by actors from the metals and mining sector. A large number of the RSPP Environment Committee members have links to the metals and mining sector, more so than any other sector. The committee is chaired by Oleg Deripaska, who has significant interests in the sector through his ownership of Basic Element and Rusal. All five of the executive positions on the committee are from metals companies, with four from Basic Element including Deripaska. Currently 18 of the 39 members of the committee are representatives of metals and mining companies, with 14 different companies represented overall (RSPP Environment Committee). In addition, Vladimir Lisin is chair of the RSPP Commission on the Metallurgical and Mining Complex, member of the RSPP's Governing Board, and the billionaire owner of NLMK, one of Russia's largest steel companies. Both Deripaska and Lisin were prominent actors in the policy debate.

The position of industry on NDT will be discussed in detail below, however it is important to note that all major industry actors stated at some point during the process that they supported NDT in principle and that they recognised the need for environmental reform. Despite its opposition to the means, industry was not totally obstructive.

Finally, environmental groups played a limited role in the NDT case. Two of Russia's largest ENGOs, WWF Russia and Greenpeace Russia, were involved in some of the policy discussions as we will see. They are considered in more detail below. The involvement of Putin and Medvedev in the process and the function of leadership in Russian policymaking are also discussed.

The policy process

The discussion will proceed chronologically, and focus on a series of policy meetings and position statements released by the key players.

The State Council Presidium meeting, May 2010

A State Council Presidium meeting, held on 27 May 2010, marked the official start of the NDT policy process.³ The meeting was attended by all the major players in the policy process, including Medvedev, Trutnev, the chair of the Duma Environment Committee Evgenii Tugolukov, the Deputy Minister from the MER Aleksandra Levitskaya, the Deputy Minister for Finance Aleksandr Novak, Vladimir Lisin as the RSPP's representative and main industry spokesperson, and the director of WWF Russia Igor Chestin (Prezident Rossii 2010b).

Medvedev provided an introductory address at the meeting, and highlighted key areas of concern. In particular, Medvedev referred to *Ukaz* 889 and commented that it had only been partially fulfilled. There were a number of reasons for this, according to Medvedev, including

³ The State Council is an advisory body, chaired by the president. It includes the speakers of the Federation Council and the Duma, the presidential plenipotentiary envoys, and the regional heads of government. The Council meets every three months. The presidium has nine members drawn from the State Council, and meets at least once a month.

the financial crisis. Despite these challenges, Medvedev argued, the task of Russia's 'ecological modernisation' had to continue (Prezident Rossii 2010a).

The role of business in the environmental policy process was emphasised, with Medvedev commenting that the modernisation of production and environmental compliance should be rewarded. Economic incentives such as tax concessions should be provided. At the same time, he noted, there was a need to strengthen accountability for environmental violations. Any infringements of environmental law should incur strict liability with appropriate penalties (Prezident Rossii 2010a). This was one of the overriding themes at the meeting, with Medvedev emphasising that individual companies should be held responsible for pollution and emissions. The introduction of NDT was one of the central tasks to achieve these ends.

Trutnev, for his part, also emphasised the need for reform. He stated that the current system for limiting environmental pollution based on maximum allowable concentrations of pollutants was excessively rigid, regulating over 2000 individual contaminants. At the same time, the system was open to subjective decisions, giving officials significant scope to change permits on a case by case basis. The MPR considered penalties to be too low. As Trutnev noted, 'the design of this legislation leads to the fact that practically all major industrial enterprises for decades exceeded the established norms, paying out negligible amounts as the charge for negative impact' (Prezident Rossii 2010a). In contrast, NDT was to be measured by the impact on the environment per unit of output; for example, the atmospheric emissions or discharge of pollutants into water, per tonne of steel produced (Prezident Rossii 2010a). The goal was to compel companies to have the minimum impact on the environment, by improving their technological capabilities (Prezident Rossii 2010a). In addition, part of the package of reforms under discussion was related to increasing fines for negative impact on the environment. It was hoped that this would compel companies to adopt NDT. Significant increases were proposed: fines would rise 2.3 times by 2011, and 3.4 times by 2016 (Prezident Rossii 2010a).

The implementation of the policy would require significant government expenditure. According to Trutnev, modernisation of the economy would require expenditure of approximately two percent of GDP annually. This was expected to lead to an initial decline in economic growth during the implementation period, but Trutnev was quick to point out the perceived benefits in terms of increasing the competitiveness of industry and the subsequent acceleration of economic growth.

Both Medvedev and Trutnev's statements point to the ambitious nature of the NDT policy in bringing about environmental reform. They also provide an indication of the substantial economic burden the policy would impose on industry and government. It is not surprising therefore that key actors within the government and industry were opposed. When asked by Medvedev for an update on the status of the draft legislation and the level of support it had, Trutnev replied, 'it has the agreement of all federal executive bodies, except for the Ministry of Economic Development (MER) and the Ministry of Finance (Minfin), and we are having an active discussion, of course, with the RSPP and the TPP' (Prezident Rossii 2010a). The MER and Minfin are two fairly important exceptions. The statement also provides a first hint of the conflict that was to develop between the MPR and the business community.

Lisin spoke on behalf of the RSPP to present industry's point of view on the proposed reforms. Lisin called Trutnev 'a dreamer' and said that he did not believe the environmental reforms would work. In detailing his opposition, Lisin argued that while Trutnev saw NDT as primarily a regulatory issue, the reality was a great deal more complex. Lisin claimed that environmental programs and costs associated with the draft legislation would reduce the competitiveness of the Russian economy, in contrast to what Trutnev had argued. Lisin also contended that the resources of industry were limited, and the proposed fines for environmental violations were excessive. The main focus, in his opinion, should be on the modernisation of industry and providing incentives for industry to this end, rather than on environmental programs. According to Lisin, this would have the indirect effect of solving environmental issues.

Reflective of WWF's peripheral involvement in this case, Chestin, who spoke at the meeting, did not devote much attention to NDT, concentrating instead on other aspects of environmental reform including the law on protected areas. Interestingly, the MER was silent on the issue of NDT, despite its strong opposition to the policy, evident later in the process.

Overall, the tone of the meeting was supportive towards environmental reform, despite Lisin's criticisms of the NDT policy. Notably, Medvedev gave the strong impression that he supported the environmental arguments over those of business. Medvedev spoke positively of environmental groups, noting that 'our colleagues, who represent the environmental movement, environmental organisations, they, of course, laid out their opinions in a considerably energetic manner, and this is good, because there has to be someone who raises the alarm' (Prezident Rossii 2010a). Addressing Lisin, Medvedev commented that 'by and large we do not care what spurs on business: to comply with environmental standards or to introduce modernisation, which would lead to compliance with environmental standards. If only it would work' (Prezident Rossii 2010a).

As noted, *poruchenie 1640* was issued following the meeting. This requested that the government draft a number of environmental laws, including NDT, and submit them to the Duma. The timeframe for completion was to be 1 December 2010, with Putin, as head of the government, responsible for carrying out this directive.

The RSPP responds

In June 2010, shortly after the State Council presidium meeting, the RSPP released a position paper on NDT. The paper provides a strong indication of the organisation's opposition to the policy proposal. The RSPP argued that it supported the MPR's stated goal of improving regulations for environmental protection and introducing economic incentives for business actors to introduce NDT. However, it added that, 'the proposed wording of the bill not only does not allow for the solving of the task at hand, but it, on the contrary, substantially exacerbates the existing problems in the sphere of environmental safety, and also in the sphere of economic activity' (RSPP 2010a).

The criticisms are wide-ranging and scathing. According to the RSPP, the proposed timeframe was unrealistic. It would mean that until industry was able to fully implement the policy of NDT (no earlier than 2020 according to the RSPP), 'almost all industrial enterprises in Russia

will become violators of the law, subject to various sanctions – from increased fees for negative impact and claims for environmental damage to administrative fines and suspension of activities’ (RSPP 2010a). In addition, the bill would lead to an increase in ‘useless paperwork’ (*‘bespoleznogo dokumentooborota’*), and the registry of highly polluting enterprises would be difficult to administer and potentially open to corruption (RSPP 2010a). The bill did ‘not eliminate redundant mechanisms and administrative procedures, on the contrary, the law guarantees their preservation’ (RSPP 2010a).

The RSPP presented a number of proposals to overcome what it perceived to be the very serious issues with the policy project. The organisation suggested, not unexpectedly, that the economic incentives for business to reduce their impact on the environment be strengthened, with concessional lending for example (RSPP 2010a). Essentially, the organisation sought to have the whole process slowed down in order to examine other options.

The intensity of the opposition to the policy project displayed in this position paper is quite striking, and suggests that the policy was seen as a direct challenge to their interests. Certainly, the introduction of NDT would impose significant costs on industry. It also had the potential to increase the administrative burden on individual enterprises, as the RSPP had pointed out. The full implications of the policy for industry will be considered further below.

On 15 June 2010, the President of the RSPP, Aleksandr Shokhin, sent a letter to the MPR setting out the position of the RSPP. In the letter Shokhin summarised many of the issues raised in the position paper. He noted that the new limits for environmental emissions would mean that nearly all industrial enterprises would be in violation of the legislation, there would be an increase in administrative tasks, the proposed system had the potential for corruption, and there were no guarantees of the targeted use of fines collected for environmental violations (RSPP Environment Committee 2010).

A series of meetings were held between the RSPP and the MPR, with little apparent success and tensions between the two actors escalating. The RSPP reported, for example, that at a meeting held on 1 July 2010, the MPR questioned the motives of the RSPP and accused business of only being interested in preserving opportunities for corruption (RSPP Environment Committee 2010).

Following meetings on 13 and 18 August, the RSPP Environment Committee then decided to provide alternative text for the existing draft of the policy. However, the RSPP reported that all but one of their proposals had been rejected, because a new draft had been introduced by the MPR, but the MPR had failed to tell the RSPP. That is, the RSPP amendments had been prepared on the basis of a draft from 5 August 2010, but this had been superseded by a later variant from the MPR. As a mark of their displeasure, the RSPP decided to reduce cooperation with the MPR at the ‘executive’ level and conduct discussions at the ‘leadership level’ instead (RSPP Environment Committee 2010).

This move met with some apparent success. On 8 September 2010, then Vice President of the RSPP, Vladimir Lisin, wrote to Trutnev to restate his views on the NDT policy project. Lisin noted that a number of important positions and principles had been agreed on. This included

the strengthening of state environmental assessments in the legislation, and the introduction of economic stimulus measures to encourage a reduction in the harmful impact on the environment by industry.

However, Lisin went on to argue that there remained a number of serious issues on which agreement had not been reached. This included, in particular, questions surrounding the practical application of NDT. Considering the speed at which the MPR intended to introduce these changes, Lisin proposed that the issues of contention be removed from the draft law for further consideration. Once the draft had been amended, wrote Lisin, the RSPP would be prepared to continue to work to actively introduce the principles of NDT (Lisin 2010).

Relations deteriorated again, and, following another unsuccessful meeting with the MPR on 11 October 2010, the RSPP released another statement of position. This one was even more negative than the previous one from June 2010. The RSPP, while supportive of the MPR's broader goal of clarifying payment for negative environmental impact in the Law on Environmental Protection, questioned the specific way this was to be achieved. The speed at which the MPR wanted to introduce and implement changes remained an issue, with the RSPP suggesting that a separate law be introduced at a later date to enable further revision of NDT issues. In addition, a key issue for the RSPP raised in this statement was in relation to obtaining the right for companies to off-set the cost of introducing environmental protection measures against the penalties for negative environmental impact. The RSPP concluded by stating that, despite repeated representations to the MPR, their proposals were ignored and did not receive 'any kind of reasonable response from the Ministry' (RSPP 2010b). The RSPP appeared dissatisfied not just with the content of the policy proposal, but also with the way in which the MPR was conducting the process.

Further objections from the RSPP were raised in an article published in *Kommersant* in November 2010. Noting the MPR's frequent references to the EU experience of NDT, deputy co-chair of the RSPP environment committee, Evgenii Bragin, argued that when the principles of NDT were introduced in Europe they were advisory in nature, and the law explicitly prohibited imposing new technology on industry. What the MPR was proposing, according to Bragin, would mean that the government would effectively decide what technology would suit a particular enterprise. It represented 'direct intervention in the technological policies of key branches of the economy' (Chechel' and Terent'eva 2010). These issues seemed intractable. So, despite Medvedev's 1 December 2010 deadline, there was no draft law ready for submission to the Duma by this date.

Putin's views on the project

As prime minister during a large part of this policy project, Putin was responsible for overseeing the development of the NDT bill and ensuring its passage through the cabinet process. On the whole, there is no indication that this project was a major priority for Putin, however he was involved in some of the discussions. At a meeting on 30 March 2011, for example, Putin commented on the importance of NDT for improving Russia's environmental situation, and at the same time, pointed out that the new law must be both cost effective and

financially accessible for companies. He then continued that the policy must not ‘create new administrative barriers in the economy’ or any ‘additional problems for business’ (Pravitel'stvo Rossii 2011b). Putin expressed a very similar position at a later meeting, on 13 October 2011, arguing that the environment needed to be protected but that this was not to be at the expense of the competitiveness of the economy (Pravitel'stvo Rossii 2011c).

On each occasion, Putin displayed a typical ambivalence towards environmental issues. Putin has long cultivated an image of himself as a strong pro-environmental leader, engaging in a number of environmental PR stunts such as flying with endangered cranes in 2012. At the same time however, his environmental views are usually tempered by statements such as the ones above, which highlight the need to find a balance between development and conservation.

The MER enters the debate

On 25 May 2011 the MER provided its comments on the draft law. These were based on public consultations carried out by the ministry with industry groups, including the RSPP, the TPP and a number of Russia's largest companies, including Lukoil, Novolipetsk Steel, Norilsk Nickel, Rusal, Severstal, and TNK-BP.

A number of issues were raised, one of the most important of which related to the division of enterprises into categories based on their environmental impact. The MER wanted to know on what basis the criteria for classification would be developed, arguing that this was vital information for industry to know in advance for investment and decision-making purposes. Furthermore, they pointed out that the system of classifying enterprises may provide the opportunity for corruption. As noted above, this issue was not resolved by the MPR before the law was passed and is still being finalised in separate regulations. The potential for corruption in the new system remains to be seen.

A significant question concerning whether industries would be able to acquire the ‘best’ technology domestically was raised, with the MER pointing out that the draft law might encourage foreign imports of technology. In addition, the MER raised a number of key industry concerns, such as the apparent increase in administration that the new system of permits would bring: a statutory responsibility of the MER. The cost of introducing NDT was seen to be prohibitively high for a number of companies, potentially leading to bankruptcies. There was also a need to introduce better incentives to encourage the adoption of NDT, according to the MER. The MER position was very firmly aligned with that of industry.

The State Council Presidium meeting, June 2011

On 9 June 2011, a State Council Presidium meeting was held to follow up on the environmental reforms raised at the meeting the previous year. NDT was a central issue on the agenda. There was a similar list of participants, including Medvedev, Trutnev, representatives from the MER, Minfin, and the WWF's Chestin. On this occasion, Deripaska was the main industry spokesperson in his capacity as chair of the RSPP's Environment Committee (Prezident Rossii 2011a).

At the meeting, it became apparent that the whole package of environmental legislation introduced in May 2010 had been delayed. Medvedev commented that the process for completing *Poruchenie 1640* had been ‘practically derailed’ (Prezident Rossii 2011c). When called to explain, Trutnev described the NDT policy as the most complicated. Trutnev was later admonished by Medvedev, who stated that ‘the level of preparedness was significantly worse, than I had expected’ (Prezident Rossii 2011c). This suggests that Medvedev was either unable or unwilling to exercise a great deal of control over the process. Medvedev placed responsibility for the delays with the government and called for an acceleration of work to fulfil executive orders.

In his statement, Trutnev provided very little indication of the conflict that had dominated the NDT policy process up to this point and caused the delays to the bill’s submission to the Duma. His statement, outlining the principles and key points to be included in the bill, suggests little had actually changed since the previous year. Referring to the package of environmental reforms, Trutnev stated that, ‘these decisions have a lot of opponents. Nevertheless, all the preparatory work has been done, all conflict with our colleagues removed’ (Prezident Rossii 2011c). Trutnev gave the impression that the conflicted policy process was at an end, and that everything would progress with ease from this point on. However the policy process had a long way to run yet.

Presenting industry views, Deripaska reiterated the position of industry in calling for discussion to be focused on ‘modernisation’ and not just environmental problems. Deripaska went on to say, of NDT, that the ‘law is very good’, however ‘over the last 12 months during the development of this law, all discussions have moved us forward very far, but so far the problem has not been fully resolved’ (Prezident Rossii 2011c). Deripaska pointed out that all other regulatory documents were to be developed later, including presumably the all-important regulation setting out the classification of enterprises as mentioned above. However, as Deripaska noted, it had not been made clear how these would be developed and what specific arrangements would be introduced (Prezident Rossii 2011c).

Chestin, from WWF, spoke during the meeting but had little to say specifically about NDT. Chestin made some brief comments on the policy process, noting that there were still improvements to be made to some of the bills, but that this could be done by the relevant committee once the bills had entered the Duma (Prezident Rossii 2011c).

Both Trutnev and Deripaska portrayed the policy process as more productive than the evidence suggests at this point. As the statements and position papers from the RSPP and the MER indicate, from November 2010 up until the State Council meeting in June 2011, there were a large number of unresolved issues and significant tensions between the MPR and the RSPP. As a result of the meeting, Medvedev issued *Poruchenie 1742GS*, which called on Putin as prime minister, and Boris Gryzlov, as chairman of the Duma, to finalise the package of laws including NDT by 15 July 2011 (Prezident Rossii 2011b). Shortly before this deadline on 7 July 2011, the project was discussed at a meeting of the government and the bill was approved for submission to the Duma (Pravitel'stvo Rossii 2011a). The bill then entered the Duma on 26

July 2011. However, despite this, there were still elements within the government who were not wholly in agreement. The MER in particular had more to say on this issue.

The RSPP's next response

The RSPP was ready with its next position paper in September 2011. Their overall view on the policy remained unchanged. The organisation still wanted clarification on how enterprises would be divided into groups on the basis of their environmental impact. Again they argued that the speed at which the MPR wanted to introduce NDT would make implementation 'impossible' (RSPP 2011). In addition, they raised the issue of how to define 'available' technology, arguing that it should not be simply whether the technology exists, but instead should reflect the economic and technological capability of a particular company to use a given technology while maintaining profitable production (RSPP 2011).

Importantly, by this point in the process, the RSPP had managed to obtain a key concession from the MPR. The bill which had entered parliament included provisions to off-set environmental spending against penalties for environmental violations. This was a significant win for industry, although was not likely to please the Minfin given the financial implications. It suggested that perhaps the MPR would give way on some issues at least. Despite this however, the RSPP argued that there were still a number of regulations related to this that needed to be adopted, including how payment rates were to be determined (RSPP 2011).

MER's second round of input

There were still many issues left to resolve in the bill when it entered parliament. These continued even when it had passed its first reading on 7 October 2011. This is not uncommon, nor is it necessarily a problem, as the committee process in the Duma is designed to address this, provide clarification and improve the quality of the draft. However, submitting a bill to the Duma usually assumes that general agreement had been reached among central government actors at this stage. On the contrary, debate continued among the main policy actors in parallel to the Duma process.

So, with the Duma process ongoing, the MER released its next evaluation of the law. Similar to its earlier statement, the comments were developed following consultation with a range of actors, including various industry groups and companies, including Gazprom, Gazprom Neft, Metalloinvest, Sibur, and Rusal. No new objections were raised. Comments by the MER focused on requests for further information on the criteria for classifying enterprises, and the short implementation period proposed by the MPR. The MER also argued that the draft law considerably underestimated investment costs required for the implementation of the law, and concluded therefore, that the policy risked failing to achieve its intended goals (Ministry of Economic Development 2012).

What is most notable, however, is just how close the MER position was to that of industry. The issues raised are again very similar to those presented by industry at various points during the policy process. This did not escape the attention of the MPR. According to an article published

in *Kommersant*, a source in the MPR commented that the MER assessment of the law ‘virtually corresponds 100%’ to that of the RSPP (Shapovalov 2012).

The MPR’s views

The negotiations continued, in a very public manner. Meeting transcripts and position papers were released by both sides. The MPR appeared to be an agency besieged by strong industry pressure, by the RSPP in particular, widely seen as being responsible for the delays in the policy process. In an interview in May 2013, for example, Donskoi was asked whether the government was under pressure from industry to once again defer reforms of environmental regulation, Donskoi replied that, ‘obviously, there are forces which are trying to put off the reforms to a later date on the pretext of a lack of investment, slowing the pace of the development of production etc’ (Shapovalov 2013b).

Industry managed to extract another significant concession, this one related to the scale of the initial implementation of NDT. Originally, the MPR had identified thousands of companies it viewed as environmentally hazardous.⁴ This figure had been revised down to just 300 companies, who were to make the transition to NDT first. The MPR cited the condition of the economy as reason for its back down (Shapovalov 2013b). Downplaying the influence of the RSPP on the policy process, Donskoi noted that ‘for the time being, nobody has postponed the date, and the acceptance of the bill is planned for this year’ (Shapovalov 2013b). However the bill would take more than another year and require intervention from Putin before it was finally passed.

Expert Council Meeting June 2013

By this point, the bill had been stalled in the Duma for almost two years. A meeting of the government’s Expert Council (*Ekspertnyi sovet pri Pravitel’stve Rossii*) was held on 18 June 2013 to discuss reforms to environmental legislation, including the introduction of NDT.⁵ A working group, involving the RSPP, MPR, MER, and the WWF, had been formed prior to the meeting in order to try and settle some of the more contentious issues before the Expert Council met.

The working group had managed to resolve a number of important issues, including the definition of NDT, the timeframe for adopting NDT, and procedures for issuing permits. However, there were also a number of issues outstanding, including energy efficiency requirements, the relationship between technological and environmental quality standards, a number of definitions relating to contaminants and adverse impact, questions regarding documentation necessary for environmental review, amongst others. The RSPP also requested further clarification on the technical handbooks (Open Government 2013).

⁴ This group of major polluters was one of the three groups outlined at the May 2010 State Council Meeting

⁵ The Expert Council of the Russian Government is an advisory body which examines economic and social questions, and provides expert input into decision-making and policy implementation. It is also supposed to form a link between civil society and the prime minister. It has a very large membership, which includes a range of representatives from NGOs including the WWF, the private sector, academics, and business associations including the TPP and the RSPP.

The Expert Council meeting was attended by Medvedev (now prime minister), Donskoi and a deputy minister from the MPR, a deputy minister from Minfin and the MER, Deripaska and a deputy chair of the RSPP Environment Committee Yurii Maksimenko, and a representative from WWF (Evgenii Shvarts) and Greenpeace Russia (Ivan Blokov).

While ENGO involvement in the case had been relatively limited to date, both WWF and Greenpeace had obviously been at least following the debate. In outlining Greenpeace's views on NDT, Blokov claimed that, 'this is an amazing situation when we as a social organisation fully agree with the proposal of the MPR on the NDT bill ... This is a unique situation, which has not been like this for a long time' (Pravitel'stvo Rossii 2013a).

WWF had little to say on NDT at the meeting, but did release a statement, in which they argued that it was important to prevent a number of industry representatives from blocking the law (WWF Russia 2013). Both organisations appeared to support the policy and the MPR.

Deripaska's position remained unchanged. He argued that implementation of the law would take a very long time as so many administrative bodies were to be involved, and so many regulations needed to be developed. In Deripaska's view, these regulations would prevent new businesses from emerging and would deter foreign investors. Deripaska concluded that neither industry nor the state had any money to implement these changes (Pravitel'stvo Rossii 2013a).

Despite the progress made by the working group, little was resolved at the meeting itself. Medvedev appeared to have lost his earlier sense of urgency. Instead, he noted that the process was slower than was originally envisaged due to business resistance to the project. In relation to the form that the final law will take, Medvedev commented that he hoped 'this dialogue will continue and we will reach some kind of final text which will be acceptable to everyone' (Pravitel'stvo Rossii 2013a).

The *poruchenie* issued as a result of the meeting called on the relevant parties to continue their discussions, but with no real sense that the policy process needed to be resolved quickly (Pravitel'stvo Rossii 2013b). It was suggested in *Kommersant* that the *poruchenie* was originally to have called for the improvement and approval of the bill in its second reading by the first of October, but this was dropped and instead the *poruchenie* called for further discussion. The reason for this, according to the article, was because Medvedev wanted to maintain harmonious relations with business (Shapovalov 2013a). This seems credible, as the *poruchenie* also requests the government consider providing additional 'economic stimulation' to encourage the transition to NDT. Certainly Medvedev's tone had changed from earlier meetings, and it appeared that he had lost the momentum for reform, dragged down by a now very lengthy policy process.

Resolution from above: Putin and the Presidential Administration intervene

By early 2014, it was clear that intervention from above was required in order to force a resolution to the very lengthy and contested policy process. On 19 March, Medvedev, now prime minister, issued *Rasporyazhenie* 398 which aimed to discourage the use of obsolete and inefficient technologies, and facilitate the transition to NDT (Pravitel'stvo Rossii 2014a).

However, a more direct approach was needed in order to reach an agreement with the RSPP and to ensure the final passage of the law through its second and third readings in the Duma.

On 2 April 2014, a meeting was held between influential presidential aide Andrei Belousov⁶, the head of the RSPP Shokhin, and Donskoi. A report of the meeting indicated that ‘all the fundamental differences in the bill [were removed], launching a transition to regulating the impact of companies on the environment on the basis of the best available technology (NDT), which has not been achieved in six years’ (Shapovalov 2014).

Belousov had been brought in to achieve a resolution. According to the report, ‘the position of Mr Belousov, according to the participants at the meeting, appeared so tough that the industrialists were basically accused of deliberately attempting to slow down modernisation’ (Shapovalov 2014). The RSPP was widely seen as to blame for the delays. On points where Belousov was able to achieve consensus, the law was amended. Where there was no consensus, the text of the draft accepted by the Duma in the first reading in 2011 was adopted (Shapovalov 2014).

Then, on 30 April 2014, a meeting was held between Putin and members of the government, including Donskoi, with the law on NDT on the agenda. Putin again emphasised both the importance of the law and the need to make sure there were no negative implications for the economy. He stated that,

this is an important law, which should stimulate the transition to new, high technology in the real sector of Russian manufacturing. And at the same time it must be such that it doesn’t damage our current work, especially in the fairly turbulent global economic situation (Prezident Rossii 2014c).

Putin offered assistance to Donskoi in ensuring the law was passed. *Poruchenie 1169* was issued by Putin on 14 May 2014, and called for the finalisation and adoption by the Duma of the bill on NDT (Prezident Rossii 2014a). The *poruchenie* was one of a package of 20 *porucheniya* which aimed to stimulate economic growth. Putin’s comments at the meeting suggest that he regarded intervention in the policy process as essential at this point, given the policy process had dragged on for as long as it had. It is worth pointing out the fact that as prime minister, Putin bore at least some responsibility for the delay.

Once Putin had issued the *poruchenie*, the very long and controversial policy process was almost at an end. Putin’s intervention was important in ensuring agreement was reached with the RSPP and that the NDT finally passed through parliament, however the groundwork for compromise was already well laid at this point.

A note on the Duma process

⁶ Interestingly, Belousov was deputy minister of the MER from 2006, and was appointed minister from 2012 to 2013. He would have been at the MER during a large part of the NDT policy debate, but appears to have not been heavily involved in discussions. Since June 2013, Belousov has been a presidential aide. In June 2015, he was elected as chairman of the board of directors at Rosneft.

Despite the contested nature of the NDT policy process, very little of this appeared to filter through to the Duma. The Duma Committee on Natural Resources led the process. The committee appeared to be a strong advocate of the NDT bill, and worked closely with the MPR to ensure its passage. The Industry Committee, one of two secondary committees responsible for the bill⁷, raised some objections to the content of the bill including in relation to the limits it might place on industrial development and the increase in administrative barriers. However, at the same time, members of the Industry Committee worked closely with the Committee on Natural Resources to develop a number of amendments. In addition there was some opposition from the *Spravedlivaya Rossiya* faction, who questioned the quality of the bill under consideration and the economic context in which it was being pursued. However, on the whole, the negotiations in the Duma were considerably milder than what was going on outside and the intense conflict between the MER, the RSPP and the MPR was not reflected in Duma debates.

Examining the Duma process, there is a sense that the deputies were waiting for instructions. As Duma deputy and member of Committee on Natural Resources, Nikitchuk, noted in 2013,

today it is difficult to predict the timing of the final adoption of the bill, and in what form it will see the light is also unclear. Whether it will be the genuine article or empty and emasculated, we'll wait and see (Duma Environment Committee 2013).

There is no suggestion that the Duma would be able to determine the form that the final law would take. The relatively minor amendments made to the law between the first and final readings of the bill further support this idea. In addition, there was little evidence of attempts to lobby deputies. This indicates that the most important part of this policy process occurred outside of the Duma. This is where industry groups concentrated their attempts to influence the final outcome.

Having languished in the Duma for a number of years, Putin's intervention ensured the bill was swiftly passed in its second reading on 1 July 2014, and its third reading on the 2 July 2014. It was approved shortly after by the Federation Council on 9 July 2014. The president signed the law on 21 July 2014.

Industry influence of the policy process

A central concern in examining this case has been in regards to the ability of industry as an interest group to influence the policy process and determine policy outcomes. In answering this question, we need to firstly examine the implications of the NDT policy for industry. Secondly, we need to consider the concessions that industry managed to obtain during the course of the policy process.

Implications for industry

First and foremost, the NDT law imposes a considerable financial burden on industrial enterprises to modernise. A key reason NDT was so controversial and met with strong resistance from industry interest groups is related to the significant cost associated with the

⁷ The other was the Committee for Construction and Land Relations

implementation of the policy. As discussed, a large part of the debate concerned who would pay for the changes. For example, when asked if the main financial burden of the new law would be placed on business, Donskoi replied,

of course! This will cost business, but, I think, industry is coming around to this. If not today, then tomorrow. Therefore, I think, the introduction of this law, it will encourage many who put off modernisation until later to do it now (Ministry of Natural Resources 2014).

Even given the generous incentives provided, the financial cost of full implementation of this law will be considerable.

Secondly, on a related point, the law imposes substantial increases to existing fines for environmental violations. Exceeding established standards of emissions or permissible waste limits involves penalties based on a coefficient of 25, while category I enterprises can have a penalty imposed based on a coefficient of 100. Though as noted, companies who have implemented NDT are exempt from these fines.

Finally, the new policy has the potential to create a substantial administrative burden. Indeed, industry raised this as being one of its major concerns on a number of occasions during the policy process. As noted earlier, the MPR pointed out that the changes brought about by the new law were designed to transfer some of the responsibilities for detecting environmental violations onto individual companies by requiring self-reporting of emissions and waste, as a way of minimising state environmental inspections (Donskoi 2014).

It would also be anticipated that the changes to the system of environmental permits for example would result in significant administrative and reporting requirements for individual enterprises classified as category I; that is, those that have significant environmental impact. It should be noted however that the law was specifically designed to reduce the administrative burden for category II, III and IV companies.

Concessions obtained by industry

Over the course of the policy process, industry interest groups managed to obtain a number of concessions from the MPR. On the whole, the MPR did not make a significant number of compromises for industry, but the ones it did make were important. There are four primary concessions, in addition to which there were the incentives provided to industry to adopt NDT included in the final law, as discussed above.

First, as outlined, originally 11 000 of the biggest polluting enterprises were to have been in the initial group to transition to the NDT regulations. By the time the final law was passed, however, the number had been reduced to 300. While this might seem like a significant reduction, in absolute terms the most polluting enterprises were still included among those to transition to NDT first, including for example the Magnitogorsk Iron and Steel Works and Norilsk Nickel (Prezident Rossii 2014b). It is also worth remembering that many of these enterprises are owned by oligarchs who have representation in the RSPP, such as Lisin and Deripaska.

Second, a key demand of the RSPP was the right for enterprises to off-set the cost of introducing environmental protection measures against any penalties they received for negative environmental impact. As previously noted, the MPR agreed to this measure early on in the policy process, and it was included in the draft law that entered parliament. Similarly, the third major concession granted was that once a company had implemented NDT, then the fee for any negative environmental impact was removed entirely. Again, this was an early win for industry and was included in the first draft to enter parliament.

Finally, the starting date of the policy was originally to have been in 2016 according to an interview given by Donskoi in July 2014, but this was then pushed back to 2019 (Ministry of Natural Resources 2014; Prezident Rossii 2014b). The timeframe for the implementation of NDT was also a major issue of contention for industry, who made frequent requests for additional time. The MPR did not give way on this issue formally (and remained adamant that they would not throughout the policy process), with a 7 year implementation timeframe remaining part of the final law. However, Donskoi hinted at a possible compromise in an interview on 1 July 2014, conceding that ‘if a company needs some additional time then, in principle, this can be considered separately by the commission’ (Ministry of Natural Resources 2014).

On the whole, industry interest groups were able to obtain a number of significant concessions from the MPR during the policy process. The scale and timeframe for implementation was modified on terms more favourable to industry. Individual enterprises were granted the right to off-set the cost of implementing environmental protection measures against any penalties they received for environmental violations. A number of other generous incentives for companies to introduce NDT were also introduced. These are important concessions and point to industry’s ability to shape policy outcomes in this case. In addition, sustained opposition to the policy from industry groups caused significant delays in the process. This can be interpreted as evidence of industry’s power in the policy process. However, this influence was not absolute.

The law did eventually pass, and it imposes a considerable financial burden on industry. The full cost to industry involved in implementing the NDT policy will be significant, as the law requires substantial modernisation of enterprises to occur. In addition, the law introduced large increases to existing fines for environmental violations for companies not compliant with the new NDT standards. It is likely that the NDT policy will also involve increased administrative responsibilities for individual companies.

Implications for Russian policymaking

Having examined the issue of industry influence on policymaking, the empirical evidence enables us to make two further observations on the Russian policy process. First, this case points to the highly contested nature of the policy process in Russia. A variety of actors participated, including government ministries, industry groups and ENGOs. Each of these groups pursued their own policy interests in what amounted to a very public and relatively open discussion. Second, political leadership was found to be important in shaping the agenda and reaching a final outcome, however was not as central as other studies of the Russian policy

process have suggested. We will first comment on the actors and interests involved, before turning to the issue of political leadership and the participation of Putin and Medvedev.

The MPR

Throughout the NDT policy process, the MPR sought to defend its interests against those of other agencies, most notably the MER, and against industry groups. In doing so, the MPR was arguably pursuing its own agenda. Certainly the ministry stood to gain from the new law to some degree. While it does not chair the Interdepartmental Council, it will be central in enforcing the new regulations and, most importantly, issuing environmental permits. The ministry had to do battle with powerful industry interests, for the most part without any significant political support from either Putin or Medvedev. The MPR can therefore be considered as an autonomous political actor in the policymaking process, rather than an instrument of the political leadership.

What is particularly noteworthy about this case is that, by pursuing the NDT policy as actively as it did, the MPR adopted a pro-environmental position. This is at odds with the commonly held perception of the ministry as a pro-industry organisation, noted above. It suggests that a rethink of the role of the MPR within the policy process may be in order, or at the very least that further research into the MPR as an institution and policy actor is necessary.

Industry interests

During the policy process, for the most part, individual companies chose to act through the RSPP as an institution rather than using personal influence to lobby the government or the executive directly. Business associations in post-Soviet Russia have been the subject of a number of studies, including for example Duvanova (2011, 2013), Hanson and Teague (2005), Pyle (2006), and more recently, O'Neal's (2016) study of small business owners. However, to the best of the author's knowledge, there have been no attempts to study the activities of the RSPP in the environmental policy sphere. Why individual companies chose to use the RSPP in this case may be best explained as being the result of a common policy interest. It was difficult to detect significant differences in the positions of individual companies and members of the RSPP on the issue of NDT. However, this said, we would not necessarily expect such a united position to translate into other policy areas. Later work will expand on this theme and consider the role of business associations in the environmental policymaking process in greater detail.

Throughout the policy process, the MER's interests were closely aligned with those of industry. There is no evidence to suggest that this was due to effective lobbying by industry, although it is worth noting that there was a perception among other policy actors that 'big business' devoted significant resources to its campaign. There were allegations of pressure being exerted on the policy process by industry. Duma Environment Committee member and Communist Party representative Nikitchuk, for example, praised Donskoi in his efforts to 'overcome the resistance of the business community' to the law (Gosudarstvennaya Duma 2013).

The absence of the oil and gas sector and Minenergo from the policy debate is an interesting element of this case. As Russia's most powerful industrial sector, and one that would be heavily

affected by the introduction of NDT, we would expect them to have played a greater role. One possible explanation for this is provided in post-law developments, which suggest the industry may have been confident of getting behind-the-scenes exemptions from the new legislation.⁸

ENGOS

Despite their minor involvement in this case, it is worth briefly commenting on the participation of ENGOS. ENGOS are widely acknowledged to have only a very minimal impact on Russian politics and the decision-making process. This has been suggested by a number of authors, including for example Henry (2010b) and Feldman and Blokov (2012). While this study does not seek to contradict this, the question of *how* these groups participate in the policymaking process has been given relatively little attention. As the NDT case has indicated, WWF, and to a lesser extent Greenpeace, is considered to be an official participant in the environmental policy process by the MPR and Medvedev. While their overall influence may be limited, both groups are provided with formalised, institutionalised access to key policy forums such as the State Council, the Expert Council and its working group.

The overall lack of ENGO involvement may seem unusual in an example of environmental policymaking. However, it suggests that in Russia's state-orientated political system, advances are made on environmental issues only when a state agency gets involved, albeit with initial impetus and a final resolution from a leader. In this way, the environment is very similar to other areas of policymaking in Russia: it involves a mixture of bureaucratic processes and intervention from political leadership.

The role of leadership

This case raises a number of questions regarding the role of political leadership in the policymaking process, and the involvement of both Putin and Medvedev. Medvedev was key in introducing NDT onto the political agenda in the first place, as part of a larger package of environmental reforms. Viewed within the broader context of Medvedev's presidency, then this case can be seen as part of his attempt to make the policy process more inclusive and transparent. Formal institutions, such as the State Council and the Expert Council, were central in bringing together the main policy actors and allowing them to air their grievances openly. Briefly, it is worth noting that the policy function of these bodies is relatively unknown, and further empirical studies are required.

⁸ At the end of February 2015, the heads of five of Russia's largest oil companies (Lukoil, Gazprom Neft, Surgutneftegaz, Bashneft, and Tatneft) wrote a letter to Putin requesting special consideration in the face of unfavourable economic conditions and declining oil prices. Sechin's signature was notably absent. The so-called 'oilmen's anti-crisis letter' (*'antikrizisnoe pis'mo neftyanikov'*) aimed to reduce the administrative burden on industry, primarily in relation to environmental regulation. A number of proposals were put forward, including the temporary reduction or delay of a several regulations including plans to reduce gas flaring, and the requirement to rehabilitate damaged land. It was suggested that penalties for negative environmental impact not be raised for 2 or 3 years (recall that this was part of the NDT regulations). It was proposed to transfer enterprises in the fuel and energy complex which were classified as high or medium risk (in terms of their environmental impact) to the jurisdiction of *Minenergo*, which presumably might be more lenient in its application of environmental law. Podobedova (2015)

At the same time however, this case can be considered as an example of unsuccessful policymaking by Medvedev. A number of his orders went unfulfilled, and as the process became bogged down by powerful industrial interests, Medvedev appeared to lose his earlier momentum. The case was left to drag on without his involvement, until Putin stepped in to resolve the issues. It speaks of Medvedev's inability to see through a significant legislative development. A similar example of a failed Medvedev reform is provided by Taylor (2014).

As prime minister, the NDT project was not a high priority for Putin. He did not appear to be drawn into the conflict between the RSPP and the MPR, nor did he take sides within the government. Putin was important in pushing through the final law, but only after a number of key compromises had already been agreed. This is in contrast to previous works, which have indicated a much greater role for Putin in the policymaking process (see for example Petrov, Lipman, and Hale 2014; and Monaghan 2013). In this case, Putin was central in resolving the policy deadlock that had emerged between industry and the MPR. However, there was no indication that Putin was heavily involved at other times during the policy process. We would suggest that this was because the case was not central to Putin's interests. This supports Fortescue's (2012) finding: Putin may have had some interest in the NDT policy, but it was not a primary concern and so he was not heavily interested in finding a solution until the process had dragged on for years.

The limited role played by the executive in this case might lead us to conclude that it is a unique example, unable to tell us much about the policymaking process more broadly. Certainly, the environment has been accorded a special place within the political system in the past (see Wiener 1999). The relatively open nature of discussion in this case, in which the key actors were more than willing to criticise their opponents and publicly question the available policy options, does not translate to all other policy settings. In this regard, the technical nature of the NDT policy contrasts with more sensitive political and security issues where we might expect much less openness. However there are a growing number of studies that suggest there is more to policymaking than just Putin and his cronies, and that open and competitive policymaking is not unusual (Fortescue 2009 and Adachi 2009 for example). Further studies might explore where the boundary lies between sensitive and open policymaking, and how rigid it is. In relation to environmental policymaking specifically, it would be valuable to test whether the capacity of the actors involved in this case (namely industry groups and the MPR) to influence outcomes changes depending on the nature of the issue.

Conclusion

The law was eventually passed, and is currently in the process of being implemented, with the outcomes as the result of considerable negotiation and compromise between actors. In the end, the final policy was more or less acceptable to all involved. While implementation remains a major challenge for the future, particularly in light of current political and economic circumstances, arguably such a negotiated outcome may prove to be more workable than other examples of policymaking have shown.

Ultimately, the NDT policy process suggests the presence of a heavily bureaucratised political system, containing a range of competing interests. Industry groups, led by the RSPP, were found to exert considerable influence on the policy process. There were significant delays in the NDT process because of the contentious nature of this policy, and because political leaders were unable at times, and unwilling at other times to see the policy through.

Despite the centralised nature of Russia's political system and the dominance of the executive in policymaking demonstrated in any number of studies, including for example Taylor (2014), the interaction of actors such as the MPR and the RSPP was the crucial factor in shaping the policy process in this case. That is, the struggle between bureaucratic actors held sway over the leadership element, at least for a period. Political leadership certainly played a role in the policy process. However, this case highlights the need to also take these competing interests into account.

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